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AMENDED RESOLUTION  
FOR REFERENDUM TO PROTECT PARK COUNTY LAND AND WATER  
BOARD OF COUNTY COMMISSIONERS  
PARK COUNTY, COLORADO

AMENDED RESOLUTION No. 97- 75

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AN AMENDED RESOLUTION ( AMENDING RESOLUTION NO. 97-<sup>5</sup> OF AUGUST 21, 1997 ) DESCRIBING AND REFERRING A BALLOT PROPOSAL FOR THE IMPOSITION OF A COUNTY-WIDE SALES TAX OF ONE PERCENT ( 1% ) ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF TAXABLE SERVICES, IN THE ESTIMATED AMOUNT OF \$350,000 ANNUALLY, AND NOT TO EXCEED \$500,000 ANNUALLY, AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, IN THE COUNTY OF PARK, COLORADO, AND PROVIDING FOR AN ELECTION FOR THE APPROVAL OF SUCH PROPOSAL AND AUTHORIZING THE COLLECTION, RETENTION AND EXPENDITURE OF THE FULL REVENUES GENERATED BY SUCH COUNTY-WIDE SALES TAX SOLELY FOR THE PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT AND MAINTENANCE OF PARK COUNTY'S REMAINING WATER RESOURCES AND LANDS CONTAINING ASSOCIATED WATER RIGHTS AND RESOURCES, AS SET FORTH HEREIN.

WHEREAS, the Board of County Commissioners has determined that there is a critical need to preserve, protect, acquire, improve and maintain Park County's remaining water resources and lands in Park County containing associated water rights and water resources, in the best interest of the citizens of Park County; and

WHEREAS, the County does not have the funds in its treasury sufficient to finance the activities to preserve, protect, acquire, improve, and maintain Park County's remaining water resources and lands containing associated water rights and water resources, without curtailing to an unacceptable level other services which the County is obligated to provide; and

WHEREAS, the County is authorized pursuant to Section 29-2-103, Colorado Revised Statutes to impose a countywide sales tax on the sale of tangible personal property at retail and the furnishing of services purchased at retail, subject to the approval of a majority of the registered electors of the County, voting on such proposal; and



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WHEREAS, Section 29-2-104, Colorado Revised Statutes provides that a proposal for a countywide sales tax shall be referred to the registered electors of the County either by resolution of the Board of County Commissioners or by petition initiated and signed by five percent of the registered electors of the County; and

WHEREAS, the Board has determined that it is in the best interest of the residents of the County to impose a Countywide sales tax at the rate of one percent (1%), in the estimated amount of \$ 350,000 annually, and not to exceed \$ 500,000 annually, and by whatever amounts are raised annually thereafter, in order to provide the funds to preserve, protect, acquire, improve, and maintain Park County's remaining water resources and lands in Park County containing associated water rights and water resources; and

WHEREAS, Park County will apply for additional funds from the GO Colorado Trust Fund, as well as other appropriate grant programs to supplement any funds received as a result of this sales tax; and

WHEREAS, the preservation, protection, acquisition, improvement and maintenance of Park County's remaining water resources and lands in Park County containing associated water rights and water resources will help manage growth and ensure that the rural heritage, the remaining water resources and lands containing water rights and water resources are preserved for future generations; and

WHEREAS, Park County believes that it is in the best interest of the citizens of Park County for a referendum to be placed on the November 4, 1997 ballot with respect to the issue of funding, by way of a Countywide one percent (1%) sales tax, in the estimated amount of \$350,000 annually, and not to exceed \$500,000 annually, and by whatever amounts are raised annually thereafter, the preservation, protection, acquisition, improvement and maintenance of Park County's remaining water resources, and lands in Park County containing associated water rights and water resources; and

WHEREAS, pursuant to Section 1-1-110 (3), C.R.S., the Board of County Commissioners must certify ballot contents to the Park County Clerk and Recorder for said November 4, 1997 election.

NOW, THEREFORE, BE IT RESOLVED that there shall be submitted to the registered electors of the County of Park at the general election to be held on Tuesday, November 4, 1997, the following proposal:





## ARTICLE 1- SALES TAX

### 1. Purpose.

The purpose of this Amended Resolution is, upon the approval of a majority of registered electors voting on such proposal, to impose a sales tax of one percent ( 1% ) upon the sale at retail of tangible personal property and the furnishing of certain services in the County, in the estimated amount of \$350,000 annually, and not to exceed \$500,000 annually, and by whatever amounts are raised annually thereafter, for the preservation, protection, acquisition, improvement, and maintenance of Park County's remaining water resources, and lands in Park County containing associated water rights and water resources, all in accordance with the provisions of Article 2 of Title 29, C.R.S., which provisions are incorporated herein by this reference. This Amended Resolution shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State of Colorado, levied by Article 26 of Title 39, C.R.S., as amended. The sales tax shall become effective on January 1, 1998.

The proceeds of this one percent (1%) sales tax shall be expended by Park County for the following purposes:

- a) To preserve, protect, improve and maintain Park County's remaining water resources and lands in Park County containing associated water rights and water resources;
- b) To acquire fee title interest in real property in Park County for the preservation, protection, improvement and maintenance of Park County's remaining water resources;
- c) To acquire less than fee title interest in real property in Park County, such as rights-of-way, easements (including conservation and agricultural), leases, options, future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis, for the preservation, protection, acquisition, improvement and maintenance of Park County's remaining water resources; and
- d) To acquire water rights and water storage rights for use in connection with the aforementioned purposes.

### 2. Statutory Definitions Incorporated.

For purposes of this Resolution, the definitions of the words contained herein shall be as defined in Sections 39-26-102 and 39-26-201, C.R.S., which definitions are incorporated herein by this reference.



### 3. Property and Services Taxed.

(a.) There is hereby levied and there shall be collected and paid a sales tax in the amount of one percent (1%) in Park County, Colorado, upon the sale at retail of tangible personal property and the furnishing of certain services, in the estimated amount of \$ 350,000 annually, and not to exceed \$ 500,000 annually, and by whatever amounts are raised annually thereafter, as provided in Section 39-26-104, C.R.S., as amended. Nothing herein shall permit any increase in the property tax mill levy or other property tax rates currently imposed by the County of Park.

(b.) The amount subject to tax shall not include the amount of any sales tax imposed by Article 26 of Title 39, C.R.S., as amended.

(c.) The gross receipts from sales shall include delivery charges when such charges are subject to the State Sales and Use Tax imposed by Article 26 of Title 39, C.R.S., as amended, regardless of the place to which delivery is made.

(d.) No sales tax shall apply to the sale of construction and building materials as the term is used in Section 29-2-109, C.R.S., as amended, if such materials are picked up by the purchaser, and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.

(e.) No sales tax shall apply to the sale of food purchased with food stamps. For the purposes of this paragraph, "food" shall have the same meaning as provided in 7 U.S.C. Section 2012 (g), as such section exists on October 1, 1987, or is thereafter amended.

(f.) No sales tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. Section 1786. For the purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such section exists on October 1, 1987, or is thereafter amended.

(g.) No sales tax shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of that sought to be imposed by Park County, Colorado. A credit shall be granted against the sales tax imposed by Park County, Colorado, with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser to the previous statutory or home rule county. The amount of the credit shall not exceed the sales tax imposed by Park County, Colorado.





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(h.) Notwithstanding any other provision of the Amended Resolution, the value of construction and building materials on which a use tax has previously been collected by an incorporated city or county shall be exempt from the county sales tax if the materials are delivered by the retailer or his agent to a site within the limits of the county.

#### 4. Exemptions.

(a.) There shall be exempt from taxation under the provisions of this Article, all of the tangible personal property and services which are exempt under the provisions set forth in Article 26, Title 39, C.R.S., as amended, which exemptions are incorporated herein by this reference including the exemption of sales of food, as defined in Section 39-26-102(4.5), C.R.S., exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XX), C.R.S., sales of and purchases of those items exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XXI), C.R.S., purchases of machinery or machine tools as provided in Section 39-26-114(11), C.R.S., and occasional sales by a charitable organization as provided in Section 39-26-114(18), C.R.S.

(b.) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales tax when such sales meet both of the following conditions:

(1.) The purchaser is a non-resident of, or has its principal place of business outside of the County; and

(2.) Such tangible personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.

#### 5. Amount of Tax

There is hereby imposed in Park County, Colorado, upon all sales of tangible personal property and the furnishing of certain services, as specified in Property and Services Taxed Section of this Article, a one percent ( 1% ) sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein, in the estimated amount of \$ 350,000 annually, and not to exceed \$ 500,000 annually, and by whatever amounts are raised annually thereafter.

#### 6. General Provisions

(a.) For the purposes of this Article, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the County or to a common carrier for delivery to a destination outside the limits of the County.



(b.) In the event a retailer has no permanent place of business in the County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., as amended, and by rules and regulations promulgated by the Department of Revenue of the State of Colorado.

#### 7. Collection, Administration and Enforcement

(a.) The collection, administration, and enforcement of the sales tax imposed by this Article shall be performed by the Executive Director of the Department of Revenue of the State of Colorado in the same manner as the collection, administration, and enforcement of the Colorado State Sales Tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., as amended, and all rules and regulations promulgated by the Executive Director of the Department of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

(b.) At the time of making his return of the tax, as required by this Article, every retailer shall be entitled to subtract from the tax so remitted a sum equal to 3.33 percent (3.33%) of said tax as his fee, said fee to be known as the "Vendor's Fee."

(c.) If said retailer shall be delinquent in remitting said tax, he shall forfeit the "Vendor Fee", unless good cause can be shown for such delinquent remittance.

### ARTICLE II-DISTRIBUTION OF REVENUE

#### Distribution of Sales Tax

Distribution of the sales tax collected by the Executive Director of the Department of Revenue, pursuant to this proposal and resolution, shall be paid to Park County.

### ARTICLE III-LIMITATION

With the enactment of this sales tax, the total sales tax in the County of Park, Colorado, will not exceed the seven percent limitation found in Section 29-2-108, C.R.S., as amended.

### ARTICLE IV-ELECTION

Upon adoption of this Amended Resolution by the Board of County Commissioners of Park County, this Amended Resolution shall be submitted to an election by the registered electors of the County of Park for their approval or rejection at the November 4, 1997 election. The cost of the election shall be paid from the County's general fund. The County Clerk and Recorder shall conduct the election in accordance with the Uniform





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Election Code of 1992 and other laws of the State of Colorado, including without limitation the requirements of Article X, Section 20 of the Colorado Constitution.

#### ARTICLE V-DEPOSIT AND USE OF REVENUE

1. All of the revenues derived from the County's one percent (1%) sales tax (the "Sales Tax") shall be deposited to a separate County sales tax special fund, to be known as the "Park County Water Preservation, Protection, Acquisition, Improvement, and Maintenance Fund" ( the "Fund"). Said Fund shall receive 100% of the revenue ( gross receipts less collection and distribution costs ) derived from said sales tax, and said revenues shall be deposited into the Fund, solely for the purposes stated herein. All interest generated from the revenues of the sales tax shall be used for the purposes stated herein. All revenue generated on the preservation, protection, acquisition, improvement and maintenance of Park County's remaining water resources and lands in Park County containing associated water rights and water resources shall be used for the purposes stated herein.

2. For purposes of the Colorado Constitution, Article X, Section 20, the receipt and expenditure of revenues of the sales tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of Park County and outside of the fiscal year spending of the County, as calculated under Article X, Section 20, and nothing in Article X, Section 20, shall limit the receipt and expenditure in each fiscal year of the full amount of such revenues of the sales tax, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of Park County for any fiscal year.

3. No Park County water or land associated with Park County's water rights and water resources acquired through the revenues provided by this sales tax may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit with respect to such water or land associated with said water rights and water resources be given, until approval of such disposal by the Board of County Commissioners. Prior to such disposal, the proposal shall be reviewed by the Park County Trust Fund Board, and a recommendation shall be forwarded to the Board of County Commissioners. Approval of the disposal may be given only by a majority vote of the members of the Board of County Commissioners after a public hearing held with notice published at least fourteen (14) days in advance in the official newspaper of the County.

#### ARTICLE VI - PARK COUNTY TRUST FUND BOARD

1. If said sales tax is approved, the Board of County Commissioners shall establish a PARK COUNTY TRUST FUND BOARD, to make recommendations to the County Commissioners regarding disbursement of funds from the Fund, and the selection of water or land containing associated water rights and water resources to be preserved, protected,



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acquired, improved and maintained, and the establishment of priorities therefor; and may by separate and additional resolutions promulgate such rules and regulations as may be required to implement this proposal for the best interests and preservation of the public peace, health, safety, and welfare of the citizens of Park County, including, without limiting the generality of the foregoing, all rules and regulations designed to assure that all proceeds from said taxes and reimbursements, rebates, or refunds thereof shall be used for the purposes herein set forth.

2. The members of the PARK COUNTY TRUST FUND BOARD shall be appointed by the Board of County Commissioners; and said TRUST FUND BOARD shall be composed of seven (7) representatives, to serve for a term certain, as determined by rules and regulations promulgated by the Board of County Commissioners. The members shall be composed as follows:

a.) One (1) Park County citizen from each of the three (3) Commissioner districts in Park County;

b.) Four (4) representatives appointed at-large, all of whom reside in Park County, and at least two (2) of whom possess expertise and experience in water resource preservation, protection, acquisition, improvement and/or management.

#### ARTICLE VII-ANNUAL REVIEW

1. The Board of County Commissioners shall adopt regulations requiring annual review by the Board of County Commissioners, with the participation of the PARK COUNTY TRUST FUND BOARD, regarding the expenditures of all of the net proceeds from said sales tax made for the preceding two (2) years, and of the proposed expenditures to be made during the next succeeding two (2) years, with a view to establishing priorities therefor; and for such purpose the relevant official County audit reports shall be made available to the PARK COUNTY TRUST FUND BOARD and to the Board of County Commissioners.

#### ARTICLE VIII-EFFECTIVE DATE-EXPIRATION DATE

1. Upon adoption by the electorate at the election on November 4, 1997, the sales tax provided herein shall become effective and in force at 12:01 a.m. on January 1, 1998, and shall expire at 12:00 a.m. on December 31, 2008, and upon said expiration all Moines remaining in the Fund created hereunder may continue to be expended for the purposes set forth herein until completely exhausted.





## ARTICLE IX-MISCELLANEOUS

1. Severability: If any section, paragraph, clause, or provision of this Amended Resolution, or the ballot question submitted to the registered electors at the election provided herein, shall be adjudged to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution or said ballot question. It is the intention of the Board of Park County Commissioners that the various parts of this Amended Resolution and said ballot question are severable.

2. Repeal and Amendment:

a.) If this Resolution is approved by a majority of the registered electors of Park County at the election to be held on November 4, 1997, its provisions relating to the amount of tax imposed, specifically the one percent (1%) sales tax specified herein, the provisions relating to the deposit and expenditure of revenue as set forth herein, and the provisions of Articles VI, VII, and VIII, shall not be repealed or amended except by a vote of the registered electors of the County.

b.) Except as provided in subsection a.) hereof, or as otherwise provided in Article 2 of Title 29, C.R.S., the provisions of this Amended Resolution may be repealed or amended, subsequent to its adoption, by a majority vote of the Board of County Commissioners and such repeal or amendment need not be submitted to the registered electors of the County for their approval.

## ARTICLE X-BALLOT TITLE/QUESTION

The Ballot Title/Question on the County-wide sales tax referendum that shall be referred to the registered electors of Park County at a general election to be held on Tuesday, the 4th day of November, 1997, shall be, in substantially the following form with only such changes as may be determined by the Board of County Commissioners:

PARK COUNTY WATER PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT, AND MAINTENANCE REFERENDUM "SHALL A PARK COUNTY ONE PERCENT (1%) SALES TAX BE REFERRED IN THE ESTIMATED AMOUNT OF \$350,000 ANNUALLY, AND NOT TO EXCEED \$500,000 ANNUALLY, AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER, FOR THE PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT, AND MAINTENANCE OF PARK COUNTY'S REMAINING WATER RESOURCES, AND LANDS IN PARK COUNTY CONTAINING ASSOCIATED WATER RIGHTS AND WATER RESOURCES; SUCH TAX TO

CONSIST OF A ONE PERCENT (1%) COUNTY-WIDE SALES TAX TO BE IMPOSED BEGINNING JANUARY 1, 1998, AND ENDING ON DECEMBER 31, 2008, IN ACCORDANCE WITH THE FORM OF AMENDED RESOLUTION CONCERNING A COUNTYWIDE SALES TAX FILED WITH THE CLERK AND RECORDER OF PARK COUNTY ON OCTOBER 2, 1997, WHICH RESOLUTION PROVIDES THAT THE TAXES COLLECTED SHALL BE EXPENDED FOR THE PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT, AND MAINTENANCE OF PARK COUNTY'S REMAINING WATER RESOURCES AND LANDS IN PARK COUNTY CONTAINING ASSOCIATED WATER RIGHTS AND WATER RESOURCES, AND IN CONNECTION THEREWITH, SHALL PARK COUNTY BE ENTITLED TO COLLECT AND SPEND ALL REVENUES FROM SUCH TAXES REGARDLESS OF WHETHER THE ANNUAL REVENUES FROM SUCH TAXES IN ANY YEAR AFTER THE FIRST FULL YEAR IN WHICH THEY ARE IN EFFECT EXCEED THE ESTIMATED DOLLAR AMOUNT STATED ABOVE, WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY PARK COUNTY UNDER ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW? NOTHING HEREIN SHALL PERMIT ANY INCREASE IN THE PROPERTY TAX MILL LEVY OR OTHER PROPERTY TAX RATES CURRENTLY IMPOSED BY THE COUNTY OF PARK."

#### ARTICLE XI-PUBLICATION OF AMENDED RESOLUTION

The County Clerk and Recorder is hereby authorized and directed to publish the full text of Article X, the Ballot Question, as contained in the Amended Resolution herein, four (4) separate and consecutive times, in the official newspaper of the County, The Park County Republican and Fairplay Flume.

#### ARTICLE XII-CONDUCT AND COST OF ELECTION

The election shall be held, conducted and the results thereof shall be determined, so far as practicable, in conformity with the general election laws of the State of Colorado, and the election provisions set forth in the Colorado Constitution, Article X, Section 20 (3), including but not limited to the mailing of required election notices and ballot issue summaries. The cost of the election shall be paid from the general fund of the County.





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MOVED, SECONDED, PASSED AND ADOPTED THIS 2<sup>nd</sup> DAY OF  
October, 1997, IN FAIRPLAY, PARK COUNTY, COLORADO.

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF PARK, COLORADO

BY: 

RICHARD TRAST  
CHAIRMAN

ATTEST:



BARBARA PASCO  
CLERK AND RECORDER

